IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.411 of 2005

Between:

C. Malakondaiah, S/o late Sri C.V. Narasimham,

R/o 17/305, Trunk Road, Nellore.

..... PETITIONER

AND

1. Nellore Municipal Corporation, Nellore, rep. by the Commissioner.
2. The District Collector, Nellore District, Nellore.
3. The Mandal Revenue Officer, Nellore.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to declare the action of the respondents herein in seeking to demolish the front portion of the residence of the petitioner bearing H.No.17/305, Trunk Road, Nellore, without following the due process of law as illegal, arbitrary and unjust by issuing a writ of mandamus or any other appropriate writ.

Counsel for the Petitioner: MR.M.V.S.SURESH KUMAR

Counsel for the Respondent No.1: S. Nageswara Reddy

Counsel for the Respondent Nos.2 and 3: GP FOR REVENUE

The Court, at the admission stage, made the following:

THE HONOURABLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.411 OF 2005

ORDER:

By this writ petition the petitioner seeks to challenge the proposed action of the respondents in trying to demolish his house bearing No.17/305 situated at Trunk Road, Nellore in an extent of 25.50 Ankanams for the purpose of widening the road.

The petitioner alleges that he is the owner of the property in question and that the respondents are initiating steps to demolish his house for the purpose of road widening without following due process of law. Assailing the impugned action of the respondents, the petitioner filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents. Both counsel agreed for disposal of the writ petition at the admission stage.

The learned Standing Counsel for the respondents submitted that on apprehension only the petitioner filed the present writ petition, and that the respondents are following due process of law before acquiring any land or before demolishing any

structures for the purpose of road widening.

In ***P.Lakshmana Rao Vs. Executive Officer***, a Division Bench of this Court issued directions to be followed by Municipal authorities, Panchayat authorities and Revenue authorities for acquiring the land for public purpose. The principles were reiterated in ***M.Madhavi Latha Vs.Rajendranagar Municipality*** . The Principles laid down by the Division Bench are as follows:

1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

2. If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

3. In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

4. If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

5. In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

6. If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking

into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.

Learned Standing Counsel appearing for the respondents, does not dispute the legal position.

The writ petition is disposed of in terms of the above judgment and till the claim of the petitioner is decided status quo obtaining as on today shall be maintained. No costs.

_____

(N.V. RAMANA, J)

20th JAN, 2005

Issue Wire at party's cost

(B/O)

Nsr/Dsr

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. Nellore Municipal Corporation, Nellore, rep. by the Commissioner.

2. The District Collector, Nellore District, Nellore.

3. The Mandal Revenue Officer, Nellore.

4. Two CCs to GP for Revenue, High Court of AP, Hyderabad (OUT)

2.2CD copies

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

To

-

-

-

-